

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

MARIA DALBOTTEN,

Plaintiff,

v.

C. R. BARD, INC. and BARD
PERIPHERAL VASCULAR, INC.,

Defendants.

Case No. 1:20-cv-00034-SPW

**ORDER ON DEFENDANTS'
MOTION FOR CLARIFICATION**

Before the Court is Defendants C.R. Bard, Inc. and Bard Peripheral Vascular, Inc.'s Motion for Clarification. (Doc. 318). Defendants seek further explanation regarding the contours of several orders in limine. The Court previously ordered that witnesses may not refer to the G2 filter, or other IVC filters, as "life-saving" or "life-extending," ruling that such beliefs were irrelevant to the strict products liability standards to be applied in this case. (Doc. 299 at 2). Defendants now state that they wish to put on evidence regarding Bard witnesses' states of mind regarding the filter's lifesaving properties to rebut evidence of actual fraud or malice when addressing potential punitive damages. (Doc. 319 at 6-7).


Whether Bard acted with malice in commission of the alleged fraud is the only area in which testimony regarding the subjective beliefs of Bard employees regarding the life-saving properties of the G2 IVC could be relevant. No other

claim involves a balancing of benefits and risks. If Plaintiff puts the subjective state of mind of Bard employees at issue, such as through the alleged failure to recall the G2, then the subjective beliefs of those employees could be used to rebut Plaintiff's evidence otherwise. Whether Bard employees believed the filter to be "life-saving" or "life-extending" is only relevant if Plaintiff opens the door to such testimony.

To the extent that Plaintiff contends that the G2 filter or IVC filters generally are not actually lifesaving or life-extending, that is an appropriate area for cross-examination, rather than exclusion.

The Court's previous rulings are modified as necessary to address this clarification.

DATED this 23rd day of February, 2023.



SUSAN P. WATTERS
United States District Judge